

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 84 be amended to read as follows:

- 1 Page 10, between lines 24 and 25, begin a new paragraph and insert:
- 2 "SECTION 8. IC 4-13-16.5-2, AS AMENDED BY P.L.87-2008,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2009]: Sec. 2. (a) There is established a governor's
- 5 commission on minority and women's business enterprises. The
- 6 commission shall consist of the following members:
- 7 (1) A governor's designee, who shall serve as chairman of the
- 8 commission.
- 9 (2) The commissioner of the Indiana department of transportation,
- 10 or the economic opportunity director of the Indiana department of
- 11 transportation if the commissioner of the Indiana department of
- 12 transportation so designates.
- 13 (3) The chairperson of the board of the Indiana economic
- 14 development corporation or the chairperson's designee.
- 15 (4) The commissioner of the department.
- 16 (5) Nine (9) individuals with demonstrated capabilities in
- 17 business and industry, especially minority and women's business
- 18 enterprises, appointed by the governor from the following
- 19 geographical areas of the state:
- 20 (A) Three (3) from the northern one-third (1/3) of the state.
- 21 (B) Three (3) from the central one-third (1/3) of the state.
- 22 (C) Three (3) from the southern one-third (1/3) of the state.
- 23 (6) Two (2) members of the house of representatives, no more
- 24 than one (1) from the same political party, appointed by the

1 speaker of the house of representatives to serve in a nonvoting
2 advisory capacity.

3 (7) Two (2) members of the senate, no more than one (1) from the
4 same political party, appointed by the president pro tempore of
5 the senate to serve in a nonvoting advisory capacity.

6 Not more than six (6) of the ten (10) members appointed or designated
7 by the governor may be of the same political party. Appointed members
8 of the commission shall serve four (4) year terms. A vacancy occurs if
9 a legislative member leaves office for any reason. Any vacancy on the
10 commission shall be filled in the same manner as the original
11 appointment.

12 (b) Each member of the commission who is not a state employee is
13 entitled to the following:

14 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

15 (2) Reimbursement for traveling expenses and other expenses
16 actually incurred in connection with the member's duties as
17 provided under IC 4-13-1-4 and in the state travel policies and
18 procedures established by the Indiana department of
19 administration and approved by the budget agency.

20 (c) Each legislative member of the commission is entitled to receive
21 the same per diem, mileage, and travel allowances established by the
22 legislative council and paid to members of the general assembly
23 serving on interim study committees. The allowances specified in this
24 subsection shall be paid by the legislative services agency from the
25 amounts appropriated for that purpose.

26 (d) A member of the commission who is a state employee but who
27 is not a member of the general assembly is not entitled to any of the
28 following:

29 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

30 (2) Reimbursement for traveling expenses as provided under
31 IC 4-13-1-4.

32 (3) Other expenses actually incurred in connection with the
33 member's duties.

34 (e) The commission shall meet at least four (4) times each year and
35 at other times as the chairman considers necessary.

36 (f) The duties of the commission shall include but not be limited to
37 the following:

38 (1) Identify minority and women's business enterprises in the
39 state.

40 (2) Assess the needs of minority and women's business
41 enterprises.

42 (3) Initiate aggressive programs to assist minority and women's
43 business enterprises in obtaining state contracts.

44 (4) Give special publicity to procurement, bidding, and qualifying
45 procedures.

46 (5) Include minority and women's business enterprises on

solicitation mailing lists.

(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority and women's business enterprises.

(7) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) to minority and women's business enterprises.

(8) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) that are required to be updated every five (5) years.

(9) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(10) Ensure that the statistical analysis required under this section:

(A) is based on goals for participation of minority business enterprises established in *Richmond v. Croson*, 488 U.S. 469 (1989);

(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and

(C) uses data on the combined capacity of minority and women's businesses enterprises in Indiana and not just regional data.

(11) Establish annual goals for the use of minority and women's business enterprises for any contract entered into:

(A) involving the use of state real property; or

(B) with the use of state funds involving the use of real property of a unit of local government.

The department shall direct contractors to demonstrate a good faith effort to meet participation goals. The good faith effort shall

1 **be demonstrated by contractors using the repository of certified**
 2 **firms created under IC 4-13-16.5-3 or a similar repository**
 3 **maintained by a unit of local government.**

4 (g) The department shall adopt rules of ethics under IC 4-22-2 for
 5 commission members other than commission members appointed
 6 under subsection (a)(6) or (a)(7).

7 (h) The department shall furnish administrative support and staff as
 8 is necessary for the effective operation of the commission.

9 **(i) The commission shall advise the department on developing**
 10 **a statement, to be included in all applications for and agreements**
 11 **governing grants made with state funds, that states the importance**
 12 **of the use of minority and women's business enterprises in fulfilling**
 13 **the purposes of the grant.**

14 SECTION 9. IC 4-13-16.5-3, AS AMENDED BY P.L.228-2007,
 15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2009]: Sec. 3. (a) There is created in the department a deputy
 17 commissioner for minority and women's business enterprise
 18 development. Upon consultation with the commission, the
 19 commissioner of the department, with the approval of the governor,
 20 shall appoint an individual who possesses demonstrated capability in
 21 business or industry, especially in minority or women's business
 22 enterprises, to serve as deputy commissioner to work with the
 23 commission in the implementation of this chapter.

24 (b) The deputy commissioner shall do the following:

25 (1) Identify and certify minority and women's business enterprises
 26 for state projects.

27 (2) Establish a central certification file.

28 (3) Periodically update the certification status of each minority or
 29 women's business enterprise.

30 (4) Monitor the progress in achieving the goals established under
 31 section 2(f)(8) **and 2(f)(11)** of this chapter.

32 (5) Require all state agencies, separate bodies corporate and
 33 politic, and state educational institutions to report on planned and
 34 actual participation of minority and women's business enterprises
 35 in contracts awarded by state agencies. **If a unit of local**
 36 **government receives a grant or enters into a contract under**
 37 **section 2(f)(11) of this chapter, the unit of local government**
 38 **shall report on planned and actual participation of minority**
 39 **and women's business enterprises in grants or contracts**
 40 **entered into under section 2(f)(11) of this chapter.** The
 41 commissioner may exclude from the reports uncertified minority
 42 and women's business enterprises.

43 (6) Determine and define opportunities for minority and women's
 44 business participation in contracts awarded by all state agencies,
 45 separate bodies corporate and politic, and state educational
 46 institutions.

- 1 (7) Implement programs initiated by the commission under
- 2 section 2 of this chapter.
- 3 (8) Perform other duties as defined by the commission or by the
- 4 commissioner of the department."
- 5 Renumber all SECTIONS consecutively.
(Reference is to ESB 84 as printed April 10, 2009.)

Representative Riecken